

(PCT Article 36 and Rule 70)

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/010407

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-10 as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* 1-15 received by this Authority on 15.07.2005 with letter of 15.07.2005
- nos.* _____ received by this Authority on _____
- ☒ the drawings:
- sheets 1/8-8/8 as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1.	Statement		
	Novelty (N)	Claims <u>1-15</u>	YES
		Claims _____	NO
	Inventive step (IS)	Claims <u>1-15</u>	YES
		Claims _____	NO
	Industrial applicability (IA)	Claims <u>1-15</u>	YES
		Claims _____	NO
2.	Citations and explanations (Rule 70.7)		
	Reference is made to the following documents:		
	D1: US 2002/0139434		
	D2: EP 0 847 959.		
1.	Novelty		
1.1	Document D1 discloses (see paragraphs [0038] to [0068] and figure 5):		
	a device for filling a container with liquids, said device consisting of a filling organ (120) with a valve for liquids (926), a valve for gas (937), a chamber (930) filled with nitrogen and, between the container (GB) and the chamber (930), a connector (121, 131, 141) for rinsing or prestressing the container.		
	The subject matter of claim 10 therefore differs from the known device in that the device comprises a tank which is partially filled with liquid and that the liquid can be pressurised with nitrogen.		
	Claim 10 is therefore novel (PCT Article 33(2)).		

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	<p>1.2 Document D2 is considered to be the prior art closest to the subject matter of claims 1 and 10. Said document discloses (the references in parentheses are to document D2):</p> <p>a method for producing and filling containers (in particular bottles) with liquids (in particular drinks) that are enriched with oxygen, the liquid being degassed and then enriched with oxygen and optionally other gases in a dissolved and/or bonded form, the containers then being sealed in a pressure-tight manner, each container (30) that is to be filled being filled with oxygen or an oxygen-gas mixture before being filled with enriched liquid, whilst being prestressed under pressure (claim 1).</p> <p>The subject matter of claims 1 (and 10) therefore differs from the known method and device in that, during the filling process, for at least some of the time, the liquid is kept in a nitrogen atmosphere not in an oxygen atmosphere.</p> <p>The subject matter of claim 1 is consequently novel (PCT Article 33(2)).</p> <p>1.3 The problem addressed by the present invention can thus be seen to reside in the fact that</p> <p style="text-align: right;">/...</p> <p>the use of an oxygen atmosphere is undesirable,</p>

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
	<p>for reasons of cost and safety in handling.</p> <p>The solution to the above problem, as proposed in claims 1 and 10 of the present application, involves an inventive step (PCT Article 33(3)). The reasons are as follows:</p> <p>the use of a nitrogen atmosphere for prestressing or a rinsing treatment in a process for filling a container with oxygen-enriched liquids is not proposed in the known prior art. Surprisingly the nitrogen atmosphere does not display any negative effect on the O₂ content or the O₂-enriched liquid.</p> <p>1.4 Claims 2-9 and 11-15 are dependent on claims 1 and 10, respectively and, in consequence, likewise satisfy the requirements of the PCT in respect of novelty and inventive step.</p>